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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

China Energy Corporation
Plaintiff

Vs.

Case No. 3:13-CV-562-MMD-VPC

Alan Hill, et al
Defendants

**DEFENDANT'S MOTION REQUESTING EXPEDITED¹
CLARIFICATION OF THE MAGISTRATE'S
APRIL 24, 2014 ORDER OF DISCOVERY STAY**

Comes Defendant Michael Sammons and moves for clarification (not reconsideration) as to the findings and law relied upon by Judge Cooke regarding the April 24, 2014 Order staying discovery. In support thereof, the Defendant would show that the Order states no findings or law or analysis upon which U.S. District Judge Miranda Du can conduct a review pursuant to FRCP, Rule 73(a) and 28 USC §636, *and such review will be sought.*

Judge Cooke simply cited Tradebay, LLC v. Ebay, Inc., 278 FRD 597, 603 (D. Nev. 2011), a decision which held that a party seeking a stay of discovery bears a "heavy burden." An Order which simply implies that the "heavy burden" has been met but without any findings or law or analysis seems

¹ The Appeal to Judge Du must be filed within 14 days, or **May 8, 2014**.

counter-productive to preserving scarce judicial resources because it compels the District Judge to conduct a *de novo* review. See e.g. Thompson v. American Family Mutual Insurance Company, No.2:09-Dist. Court, D. Nevada 2011 (“the magistrate judge has made no findings of law or fact in the disputed orders ... (so) ... the court finds it necessary to review the issues *de novo*”).

Thompson makes clear that an Order of a US Magistrate devoid of analysis, facts, or law is of little help to the District Judge, for it compels the District Judge to make a *de novo* review of *all* the issues. Id. This order gave the parties no analysis or reasoning or guidance to consider in deciding whether to seek review (or in this case whether to refile the Third-Party Complaint in Nevada or Nebraska); it wastes the thoughtful and scholarly analysis undoubtedly done by the Magistrate and her law clerk on issues which have split decisions by District Judges across the nation; and requires the District Judge and her law clerk to begin a legal analysis from scratch.

WHEREFORE, Defendant Michael Sammons moves for clarification (not reconsideration) of the April 24, 2014 Order, seeking simply the addition of the facts and/or law replied upon by Judge Cooke in granting the stay, for the purpose of easing the demands upon Judge Du in conducting a review of the stay pursuant to FRCP, Rule 73(a) and 28 USC §636.

Respectfully submitted:



Michael Sammons, pro se

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was mailed or emailed to all parties this the 30 day of April, 2014.



Michael Sammons, pro se